

## VER. 4 DRAFT - FOR DISCUSSION PURPOSES ONLY

### Revisions to Section NR 445.08, Wis. Adm. Code

The following revisions are expected to be part of the NR 445 revision process.

SECTION \_\_ NR 445.08 is renumbered NR 445.11 and amended to read:

**NR 445.0811 Notice of hazardous substance air spills.** This section applies to air spills of hazardous substances listed in this chapter, but having no specific de minimis exemption amount specified in ch. NR 706.

(1) Persons possessing or controlling a hazardous substance shall immediately notify the department of any hazardous ~~emission~~ substance discharges from the stationary source not in conformity with an air pollution control permit or allowed by the department under chs. NR 400 to 499-, which are above the following de minimis levels:

- (a) For a hazardous substance listed in Tables A, B, or C with a 1 or 24 hour averaging time, the total amount discharged in any 24 hour period is less than the amount allowed to be released in one hour as listed in the threshold table for a stack height of less than 25 feet.
- (b) For a hazardous substance listed in Tables A, B, or C with an annual averaging time, the total amount discharged in any 24 hour period is less than 10% of the amount allowed to be released in a year as listed in the threshold table for a stack height of less than 25 feet.
- (c) For hazardous substances listed with more than one averaging time, the most restrictive amount applies.

(2) Notice shall be given as required by s. 292.11, Stats., and ch. NR 706.

Note: The 24-hour hotline operated by the division of emergency management in cooperation with the department can be reached at 1-800-943-0003. Directories for the telephone numbers of the department's offices can be found in local telephone books and in various department guidance documents.

Note: The department believes that the dictionary definition of "immediate", i.e. "occurring at once; next in line," does not lend itself to quantification. An across-the-board time-period can't be specified. In uncomplicated spill situations, responsible parties are expected to provide notice to the department within a matter of a few minutes after they learned of the spill. In other situations, especially where emergency action of some kind is being taken by the responsible party or where the responsible party does not have access to a telephone, notification may not be possible for several hours, but would still be considered "immediate" if promptly given.

Note: Notification requirements under this rule may not meet the obligations for responsible parties to report hazardous substance releases to the federal government. Questions on federal requirements should be directed to the US EPA Superfund hotline at 1-800-535-0202.

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(3) In addition to emergency notification requirements as described above and in s. 292.11, Stats. and ch. NR 706, the responsible party shall:

(a)Keep written records that include descriptions of the hazardous substance discharge (date, time, location, duration, and description of how the discharge occurred) and provide estimates of the amounts discharged to the environment. For the purposes of this subsection, if this information is also required under a permit or other requirement, it is not necessary to duplicate the recordkeeping.

(b)Facilities subject to reporting of emissions of hazardous substances listed in ch. NR 438 shall include the amount of emissions resulting from all hazardous substance discharges in their annual emissions reports to the department.

Note: In addition to the requirements of this section, facilities may also be responsible for reporting hazardous substance discharges because of conditions placed in their air pollution control permit or because of the requirements of section ch. NR 439.11 Malfunction prevention and abatement plans.

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